IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 738 OF 1995

Union of India ..Appellants

versus

M/s. Shamsundar Hastimal ..Respondents

Mr. A. N. Samant for the Appellants.

None for the Respondents.

CORAM: D.G.DESHPANDE,J.

DATED: 4TH MAY, 2005

ORAL ORDER :

1. Heard Mr. Samant learned counsel for the appellants. Nobody for the Respondents, though served.

2. This Appeal is filed by the Union of India - Appellants against the order of the RACT, Mumbai dated 23.3.1994.

3. Mr. Samant raised only two contentions. Firstly, according to him the Tribunal awarded interest at the rate of 12% per annum and according to him it should be 9% per annum in view of the Judgment of this Court

reported in **2005(1) Mh.L.J. 165 Maharashtra State Electricity Board vs. Union of India.** It was a claim against the Railways and the interest was awarded ultimately by the High Court at 9% per annum. I had also followed same judgment earlier, therefore the rate of interest is required to be reduced to 9% per annum.

4. Second contention of Mr. Samant is that the claim was filed by the original claimants against two Railways i.e. Central Railway and South Eastern Railways.

5. Both the contentions of Mr. Samant are required to be accepted. So far as interest part is concerned, the rate of interest is required to be reduced at the rate of 9% per annum, in view of the judgment of this court, as stated above.

6 . As regards liability of both the railways, if at all there is liability of the Union of India, then Decree against one of the railways would be proper and sufficient. In many such appeals of the Union of India, I have accepted this contention, therefore, impugned judgment will have to be maintained against General Manager, Central Railway only

and order against South Eastern Railways will have to be set aside.

7. In the result, I pass the following order:

ORDER

. The appeal is partly allowed.

. There shall be liability of General Manager, Central Railway only and not of Southern Railways.

. The principal amount awarded will carry interest at the rate of 9% per annum from the date of application till realisation or till date of payment or deposit with proportionate costs.

. Amount that is found in excess after the aforesaid calculations shall be returned to the appellants. Respondents will be permitted to withdraw the amount as per the calculations.

. No order as to costs.

4.5.2005 (D.G. DESHPANDE,J.)